

## WALPOLE ZONING BOARD OF APPEALS MINUTES OF MARCH 24, 2021

A meeting of the ZONING BOARD OF APPEALS was held remotely via Zoom on WEDNESDAY, MARCH 24, 2021 AT 7PM. The following members were present on the Zoom Webinar:

Present: John Lee, Susanne Murphy, Bob Fitzgerald, Jane Coffey, Drew Delaney, Dave Anderson, George Pucci (Town Counsel), Patrick Deschenes (Community & Economic Dev. Director), Mike Yanovitch (Bldg. Commissioner)

### **Case No. 20-40, Wall Street Development Corp., Administrative Appeal of the Zoning Enforcement Officer's Violation Notice & Cease & Desist regarding the property at 48 Burns Ave.:**

Lee opened the hearing, present was Appellant Lou Petrozzi of Wall Street Development. Mr. Petrozzi explained that the Cease & Desist Order was issued by Mr. Yanovitch on 11/30/20, and expressed that he thinks the Order was issued inappropriately, and maintains that any of the activities that were undertaken on the site of 48 Burns Ave. during this process were allowed under Mass. General Laws, the Zoning Bylaws, and his demolition permit. Mr. Petrozzi stated that he is not trying to circumvent any of the regulations, and is following what is allowed under the current regulations. Mr. Lee asked Mr. Yanovitch to give some insight to the Cease & Desist and the activity on the property, in which Mr. Yanovitch stated that he has had conversations with Mr. Petrozzi and emphasized that Mr. Petrozzi is very well aware that the building code requires a foundation to be filled after demolition, which is what he did, and was also instructed not to do any more than that on the site. Mr. Yanovitch went on to say that the appellant continued to tell Mr. Yanovitch that he was bringing trucks onto the site to clear the demo debris that he is going to utilize on the development site. Mr. Yanovitch stated that he believes the appellant is in violation of the Comprehensive Permit that was previously issued by the ZBA because within the permits conditions there are pre-qualifications before a building permit can be gained, which was cited in the Cease & Desist Order, and that clearing and filling was specifically forbidden, and therefore believes that the appellant has exceeded what he is allowed to do on the site. Lee opened the hearing up to the public for comment, which there was none. Mr. Pucci recommended that if there are no further questions or comments from board members or the public, that the public hearing be closed at this time. Murphy motioned to close the public hearing, seconded by Coffey, roll call vote: Lee-aye; Murphy-aye; Fitzgerald-aye; Coffey-aye; Delaney-aye, the motion carried 5-0-0. Mr. Lee asked the board members if they had any comments on the public hearing, which included the following;

Mr. Fitzgerald: agrees that the advancement on the site is governed by the comprehensive permit and the appellant does not have the ability to choose whether or not he wants to proceed under the Comprehensive Permit or abandon the project and proceed under Chapter 40A.

Murphy motioned to deny the appeal and uphold the Cease & Desist Order, seconded by Coffey, roll call vote: Lee-aye; Murphy-aye; Fitzgerald-aye; Coffey-aye; Delaney-aye, the motion carried 5-0-0.

### **Case No. 05-20, Wall Street Development Corp., Dupee Street (Map 35; Parcel 380-1), Comprehensive Permit:**

Lee opened the hearing, and explained that revised plans dated 3/15/21 were submitted for review by Tetra Tech and the Fire Dept. Present was the applicant Lou Petrozzi of Wall Street Development Corp., along with Rob Truax of GLM Engineering and Bill Scully of Green International Affiliates. The applicant explained that he recently submitted a response relating to the comments and concerns that the board expressed at the last hearing relating to the turning analysis for the fire apparatus within the cul-de-sac for existing and accessing the site, along with the height of the buildings. The applicant stated that the recent revised plans depict adequate turning within the cul-de-sac and a small modification to the pavement width of the cul-de-sac to 82 ft. and a radius of 35 ft. to allow for the turning of the fire apparatus, along with revised architectural plans that show the height of the 8 single-family condominiums. Mr. Lee stated that the board has also received information from the Fire Dept. showing the turning capabilities of their equipment into the site from Rte. 27 (High Plain St.). Mr. Truax and Mr. Scully presented the revised plans and gave an overview of the turning analysis that was recently submitted. Mr. Lee asked Mr. Truax what else could be done to resolve the issue of the pumper truck crossing over the center line of the street in order to access the site, since it is an outstanding concern by the Fire Chief and the ZBA, in which Mr. Truax stated that there isn't anything more that can be done other than what has been provided, and further stated

that the road is limited to the width of the ROW. Mr. Lee asked the board members if they had any comments, which included the following;

Mrs. Murphy asked about the relocation of the utility poles, in which Mr. Truax stated that the utility company relocates them upon an approved plan being submitted to them. Mr. Truax also reiterated that the pole being relocated is the poll located by house #6, which is the last poll on the street.

Mr. Delaney inquired about whether the homes will be sprinkled, and how far apart they are from each other, in which Mr. Truax replied that the homes are not proposed to be sprinkled, and they will be 11 ft. apart from each other.

Mr. Petrozzi stated that after just reviewing the most recent letter from the Fire Dept., that the Fire Chief does not say that the ladder truck cannot make the turn into the site, rather that the entrance should be reevaluated to eliminate a dangerous maneuver. Mr. Petrozzi stated that at this point in time, he has done everything he can to evaluate and reevaluate at the intersection, and has exhausted his options. Furthermore, Mr. Petrozzi stated that the Fire Dept. comments relating to the dangerous maneuver at the entrance are specifically talking about the newest ladder truck that is 43 ft. in length, and other than that truck, all other emergency vehicles can access the roadway without involving any kind of dangerous maneuver.

Mrs. Murphy asked about how many parking spaces each home will have, in which Mr. Truax stated that there will be four, and two visitor spaces will be located within the project as well. Mrs. Murphy asked about snow removal, in which Mr. Truax stated that snow will be pushed to the edge of the road, and then off the end of the visitor parking, which will be the primary snow storage area.

Mr. Lee asked about the heights of the buildings on the revised plans, in which Mr. Petrozzi noted the Zoning Bylaws establish the height of the buildings, which is the average grade taken around all points of the property of the building itself, so the front and sides of the building are significantly less in height than the rear of the building which has a walkout basement. Mr. Petrozzi stated that he feels comfortable that the average height of the proposed buildings that is required under the Zoning Bylaws is in compliance with your regulations. Mr. Lee confirmed that the plans depict a rear building height of 34.10 ft., however, the front elevations are not shown on the plan, in which Mr. Petrozzi stated that the front elevations will most likely be 20-22 ft. in height. Mr. Fitzgerald asked the applicant if he is asking for a height waiver, in which Mr. Petrozzi stated that he will not be asking for a height waiver since the building are proposed to comply with zoning. Lee opened the hearing up to the public for comment, which included the following;

Ciaran Martyn: clarification on rear building height

Julie Sullivan: rear building elevations compared to building heights on Victoria Circle; potential privacy screening

Tyler Houle: window size relating to privacy from project to Victoria Circle; concern over access of multiple emergency vehicles accessing site simultaneously

Janis Selett: concerns over the number of emergency vehicles that can be accommodated at one time on the street; concern over the number of homes

Mr. Lee asked the board members what they feel the next steps should be going forward, Mr. Fitzgerald recommended that the board keep the public hearing open, and review the waiver requests and take in additional information from departments, the applicant and the public as the next step with the guidance and input of Town Counsel. Coffey reiterated that there are still outstanding issues relating to safety in the latest comments from the Fire Dept. dated 3/24/21. Mr. Pucci agreed that the public hearing should remain open for the purpose of receiving additional information and review of the waiver requests. Mr. Petrozzi stated that he is amenable to an extension of time to keep the public hearing open until 4/15/21, and also continuing the public hearing to 4/14/21. At the request of the applicant Murphy motioned to accept a written extension by the applicant to keep the public hearing open to 4/15/21, seconded by Coffey, roll call vote: Lee-aye; Murphy-aye; Fitzgerald-aye; Coffey-aye; Delaney-aye, the motion carried 5-0-0. On behalf of the applicant, Murphy motioned to continue the hearing to 4/14/21 at 7PM via zoom, seconded by Coffey, roll call vote: Lee-aye; Murphy-aye; Fitzgerald-aye; Coffey-aye; Delaney-aye, the motion carried 5-0-0.

**Case No, 05-19-03 Wall Street Development Corp., 48 Burns Avenue request for Substantial Project Change No. 3, for modification to Condition E.13. of the Comprehensive Permit:**

Lee opened the hearing, and explained that this modification relates to condition E.13. relating to the hours of operation due to the safety of school aged children in the area. Mr. Petrozzi stated that the ZBA modify the condition to change the hours to the initial start time of 7AM. Mr. Lee asked Mr. Petrozzi if he is also requesting that the stop hour of construction be changed to 7PM instead of the current implemented time of 5PM, in which Mr. Petrozzi stated that the stop time is less important than the start time, and stated that during the summer months people may want to work later than 5PM, however the start time is most important part of this modification request. Murphy stated that even though the applicant submitted correspondence with the School Dept. citing that there are currently no school aged kids on Burns Ave., there has been public submissions from residents within the area stating that there will be school-aged children attending school in the fall, and therefore would like to uphold the start time for operations to 8AM. Fitzgerald asked Town Counsel if the ZBA should be entertaining the request for modifications to the Comprehensive Permit due to it currently being in the appeals process with the HAC, in which Mr. Pucci stated that the applicant is within his right to request modifications to the Comprehensive Permit. Delaney stated that the original condition is justified and should be upheld due to safety concerns. Lee opened the hearing up to the public for comment, which included the following;

Cathy Campbell: agrees with board members in terms of keeping the initial start time of operations to 8AM and expressed concern over the safety of the children in the surrounding area.

Mrs. Murphy motioned to close the public hearing, seconded by Mrs. Coffey, roll call vote: Lee-aye; Murphy-aye; Fitzgerald-aye; Coffey-aye; Delaney-aye, the motion carried 5-0-0. Mrs. Murphy motioned to deny the request for modification of ConditionE.13. of the Comprehensive Permit for case 05-19-03, seconded by Coffey, roll call vote: Lee-aye; Murphy-aye; Fitzgerald-aye; Coffey-aye; Delaney-aye, the motion carried 5-0-0.

Minutes: no minutes were accepted at this time.

Murphy motioned to adjourn, seconded by Coffey, roll call vote: Lee-aye; Murphy-aye; Fitzgerald-aye; Coffey-aye; Delaney-aye, the motion carried 5-0-0.

The meeting adjourned at 8:45 PM

6/16/21